Call to Order:

The meeting was called to order at 7:30 p.m. Present were Chair Zach Bergeron, members Vincent Chiozzi (arrived at 7:33), Jay Doherty, Ann Knowles and Associate Member Steve Pouliot; also present was Paul Materazzo, Director of Planning.

Shawsheen Square Rezoning:

Mr. Materazzo explained that the Planning Board has been working on what they would like to present for the Town to consider at Town Meeting 2015. A long term goal for the Board has been to create flexibility in Shawsheen Village along the frontage of Haverhill Street from Shawsheen Square to the Railroad Bridge. He showed that the area currently has three zoning districts of General Business, Industrial A and Single Residence A that come together along a section of Haverhill Street. The inconsistent zoning and deficient infrastructure is affecting land values and restricting quality development. A process can be set up where there would be a thorough review process by the Planning Board and Design Review Board to allow for infill and new opportunities consistent with the Town's Master Plan.

Eric Daum of 15 Carlisle Street stated that he is an architect, a member of the Design Review Board and former President of the Institute of Classical Architecture's New England Chapter. As a member of the ICA he participated in a design charrette over a number of years for Shawsheen Village. There are a lot of unfilled spaces, and there is an opportunity to use the existing language of the neighborhood to create development opportunities to increase density and create a walking neighborhood where planned building allows businesses to grow in a logical, non disruptive way.

Ms. Knowles questioned how the Town can respect the historicism of the area. Mr. Materazzo stated that flexibility in uses may provide the opportunity to save buildings and reposition them to the community's best interest. He added that the Preservation Commission reviews proposals on structures that have been deemed historic, and they can place a one year demolition delay on historic structures for the developer to try to find a reasonable solution to save the facility.

Beth Niemi of 15 Carlisle Street stated that she is an architect and she would like for the Town to consider an overlay district instead of expanding the GB district. This would give the Town the ability to protect the historic buildings and control the look of development and the feel of the neighborhood. If the area were rezoned GB a developer could come in with a CVS with a sea of parking. An overlay district allows for regulations on such things as design, size, materials, setbacks, lighting and parking. Mr. Materazzo agreed that an overlay could be considered.

Matt Mclean of 18 Lowell Street stated that the area has a lot of untapped potential that needs to be resurrected. He asked how the Town can know that there is demand for complimentary uses for the area, so that they don't instead get a Wendy's or a CVS. He felt if there was such a demand for the area, it would already be seen in the area zoned GB. Mr. Materazzo noted that a landowner in the specific area of New England Bank approached the Planning Board with this idea, as they are currently limited with what they can do with their buildings. This is an opportunity to engage the residents on the idea of expanding past that one area.

Shawsheen Square Rezoning (cont'd):

Brian Barry of 30 Riverina Road stated that it is crucial to keep the historic significance of the area intact. The road infrastructure is currently a nightmare, so the size of any establishment needs to be carefully monitored. Riverina Road is used as a cut through during the week, but is very quiet on the weekends. He would hate to see the same traffic on his street on the weekends. Mr. Materazzo stated that any review process could require an applicant to demonstrate that their project will not make traffic worse. Proponents may also be required to provide streetscape improvements for traffic calming. He agreed that the big picture is that the infrastructure of Shawsheen Square needs to be fixed. A corridor study is currently underway on Route 133 from Route 93 to the Railroad Bridge. The Town was able to require the applicant for the 40B at Rolling Green to provide \$150,000 to develop plans for road improvements to that corridor. MassHighway has performed a safety audit of the area and additional state money may be available for further improvements.

Bob McCumber of 23 Arundel Street stated that he feels comfortable with having the current SRA district on Haverhill Street because it protects the residents and the area is dense enough. Zoning is protection, and there are specific protections in SRA that you don't have in the GB. The Town has made the decision in the past not to extend the GB district up and down Main Street and to have a devoted downtown area.

Dick O'Brien of 12 Argyle Street stated that it is better for the area that is zoned SRA to stay SRA. If the zoning is changed the Town will lose a lot of control. There has always been a car dealership on Haverhill Street, and if the zoning is changed to GB, the dealership's owner may expand, make the building higher or wider or build a major car dealership. Mr. Materazzo stated that an overlay district would allow the Town to pick and choose what specific uses could go in the area. Limitations could also be placed on size and certain uses may be prohibited. If existing businesses moved out, it could prohibit a new business of that use to move in. Mr. O'Brien asked if those limitations could be placed at Town meeting at the time of the vote on any zoning change. Mr. Materazzo stated that he was correct. An overlay district could restrict the zoning to not allow any uses that the neighborhood does not want.

Ken Feyl of 17 Olde Berry Road, also an architect, stated that an overlay can be looked at as a kit of parts which is a control piece that can be used to limit and maintain the historic flavor and character of the area.

Mr. Chiozzi asked about the history of the area and if it was zoned something else before and changed to residential. Mr. Materazzo asked Eric Daum to give a short history of the area, one of the first utopian communities built in the United States. Eric Daum of 15 Carlisle Street stated that William Wood created Shawsheen Village in 1922 when he moved his American Woolen Company out of Lawrence and into Andover. The Village was a planned community with residences for both upper and mid level management in Brick and White Shawsheen. The property also included a dairy that serviced the mills' cafeteria. There were two garages for cars because Mr. Wood did not like cars parked in front of homes. The corporate offices were located in the Balmoral condominium building, and the railroad stop was put in place for the workers who would come in for the day from Lawrence. Mr. Chiozzi asked if this all predated zoning. Mr. Materazzo stated that he would have to dig further into the history. He noted that

Shawsheen Square Rezoning (cont'd):

there are other areas of Town that have similar zoning such as the Redman Card Building which is part of the Dundee Park campus but in an SRA zone.

Rebecca Or-Shahar of 3York Street stated that her neighborhood is very family friendly. A lot of traffic cuts through the neighborhood bypassing Route 28 during the general business hours of the week. Her concern is what will happen with the traffic situation if the zoning is changed to GB, and Brickstone Square which is only 60% occupied and other empty buildings are then filled to capacity. She would like to know what protections will be given to the neighbors who live in this area and will have to deal with the traffic flow.

Mr. Bergeron noted that a committee of Town staff, Board members and residents may be able to put together the best of everyone's ideas. The committee may decide that the best decision is for everything to stay as is, and that would be okay. Mr. Doherty agreed that right now this is just a discussion and it may be a way to help protect the neighborhood through an overlay district.

Mr. Materazzo encouraged those who would like to be part of a working group to take his business card and contact him. He stated he would like a working group to meet in the next few weeks and report back to the Board at their meeting on November 18, 2014 at 7:30 P.M. at Memorial Hall Library.

254 Lowell Street:

Mr. Bergeron opened the continued public hearing on an application submitted by National Development Acquisitions, LLC for a Special Permit for Elderly Housing for a proposed development at 254 Lowell Street at the former Strawberry Hill Farm.

Mr. Materazzo stated that this hearing would focus on the drainage design and peer review, the review by the Municipal Services Department, the payment in lieu of and the local preference. The Town Engineer's staff confirmed today that there is a short list of outstanding items to be addressed by the applicant. Ted Tye, Managing Partner of National Development stated that most if not all of the items have been addressed as of today.

Mr. Materazzo reviewed the payment in lieu of the Phase 2. The applicant has offered a cash payment of \$250,000 which is \$28,000 per unit should the Phase 2 building not be built. Section 7.4.4.6.c of the Zoning Bylaw allows for this cash payment. He stated that in 2013 an applicant in Reading provided \$29,000 per unit as a cash payment in lieu of for a similar project. Mr. Materazzo stated that he also reached out to Judy Barrett of RKG Consultants who has work as a consultant for the Town on 40Bs. Ms. Barrett stated that this amount is reasonable and what she sees in the Massachusetts market, and she has not seen affordable memory care in the state.

Mr. Bergeron asked if the project in Reading had a second building that was not built. Mr. Materazzo stated that the project was only one memory care building. Ms. Knowles noted that the memo submitted by Chris Clemente, the Inspector of Buildings, didn't comment on Section 7.4.4.4 of the Bylaw which calls for three levels of affordability, and this project will have a different split of affordability. Mr. Materazzo stated that the Bylaw allows for the Board to consider splits of affordability higher or lower based on need. Ms. Knowles asked if that falls

under Section 7.4.4.10 that states, "Nothing in this subsection shall preclude a developer from setting aside more than the required number of affordable units or from setting aside additional units for higher but limited income groups or from setting aside more units for lower-income groups." Mr. Materazzo stated that the income levels are at the board's discretion. Mr. Tye stated that they chose to make the Andover Senior Residences 100% affordable. The Bylaw only requires 15% of the development to be affordable, and they are making the development 53% affordable.

Mr. Materazzo reviewed the local preference that can be placed on projects based on Department of Housing and Community Development Guidelines. DHCD defines a resident as anyone who can provide evidence of living in the Town at the time of their application in the form of a utility bill, rent receipt, street listing or voter registration listing. If you live in Town for one day you are a resident. The recent 40B development at Rolling Green set a local preference for residents, relatives of residents, employees of the Town and households with children in local schools. Ms. Knowles asked if it was typical to include people who work in Town. Mr. Materazzo stated that it was typical to include employees of the Town. Mr. Tye stated that residents generally go to the top of the list, and then immediate relatives are next followed by employees of the Town.

Mr. Pouliot asked if the 70% set aside for local preference would be in perpetuity. Mr. Tye explained that in the first lottery, 70% of the beds would be filled by those who meet the resident criteria. As a room opens up it is filled from the waiting list with the order of preference being maintained. Mr. Pouliot asked if beds would remain empty if there were no residents on the waiting list at the time that a resident room was available. Mr. Tye stated that room would always be filled, but Andover residents would always be placed at the top of the waiting list.

Mr. Pouliot asked if a resident could have a 20-year old grandchild live with them. Susan Gittelman of B'nai B'rith Housing stated that the units will have only one bedroom and occupancy is based on the state sanitary code of a maximum of two people per bedroom. Restrictions will be put in place that the units can only be rented by those over the age of 55 and no one under the age of 18 may live there. It is within the realm of possibilities that it could happen but the likelihood is very small. Mr. Materazzo asked Mr. Gittelman is she has ever experienced that scenario in other developments and she stated that she has not.

Cindy Rand of 5 Robinswood Way asked if federal guidelines restrict you from defining a resident as someone who has lived in Town for 5 years. Mr. Materazzo answered that DHCD guidelines state that amount of time spent in a community cannot be considered.

Jerry Crowley of 2 Cricket Circle asked why Town Counsel has not evaluated the project. Mr. Materazzo stated that Town Counsel is aware of the project and stands by any zoning interpretations made by the Inspector of Buildings. Chet Lyons of 10 Wild Rose Drive stated that codes are hard to understand and the Building Inspector's does not have the expertise to render the proper decision. The Town Attorney should weigh in because if the permit is granted it is very likely it will be appealed. Mr. Bergeron asked what he would want Town Counsel to review. Mr. Lyons stated that there is quite a bit of interlocking code and regulatory terminology involved, and he can't imagine that the Town Building Inspector is at the same level of

competence as the Town Attorney. The Town Attorney should decide the relevant codes, review them and make an informed decision. Mr. Doherty stated that he did not think that it would be unreasonable to get an opinion.

Cindy Rand of 5 Robinswood Way asked for clarification on what the Board may consider in regards to affordability. Mr. Materazzo stated Section 7.4.4.10 of the Bylaw states that there is nothing prohibiting the developer from providing more affordable units than required. Ms. Rand asked what the affordable percentages are in the Bylaw. Ms. Knowles read from the section of the Bylaw that calls for 20% of the affordable units to be set aside for low, 50% for moderate and 30% upper-moderate income. Mr. Materazzo stated that nothing prohibits the developer from exceeding the low income requirements. Ms. Rand asked if the Board has to accept a 100% affordable development. Mr. Pouliot stated that they could ask that they provide less affordable units, but that would go against the need for affordable housing.

Heather Lauten of 254 Lowell Street stated that the Bylaw seems to require the income levels to be spread out. She noted that abutters are disappointed that their relatives do not qualify based on the income limits. She stated that Section 7.4.4.3 of the Bylaw calls for the affordable units to be dispersed throughout the buildings. This development does not meet that section of the Bylaw as there is only affordability in one building. Mr. Bergeron stated that he would like to get Town Counsel's opinion on if this application meets the intent of that section of the Bylaw. Jerry Crowley of 2 Cricket Circle asked for clarification on a person's maximum assets. Mr. Tye stated that 3% of a person's assets are considered income.

Tony Moura of Stantec Consulting, an engineer representing the applicant gave an overview of the stormwater analysis for the site. He stated the rate of runoff for existing conditions was analyzed by modeling soil types and groundwater conditions. A hydrologic model was developed which calculated rates of runoff for various storm events. The rates of runoff were analyzed to two design points, the municipal culverts that currently cross Lowell Street. A third design point that was analyzed was the property line to the west where the grade drops off. A system has been designed to deal with the increase in impervious areas of the buildings and paved areas. Subsurface stormwater infiltration systems have been designed to treat and clean water from paved surfaces to remove total suspended solids in compliance with MassDEP stormwater management regulations. The rate of runoff at the three design points will go into underground chamber systems to treat sediments and pollutants and provide groundwater recharge to reintroduce rainwater into the ground refreshing the aquifers. The grade of the site slopes from the back of the property towards Lowell Street. Stormwater will be collected through surface flow, catch basin structures, area drain structures or sheet flow and diverted into the stormwater chamber systems. The system is also designed to overflow in large storm events for the sheetflow to go into the existing municipal system where it discharges today. Mr. Tye added that the rate of runoff after development will be lower and cleaner.

Janet Bernardo of the Horsley Witten Group, the Town's independent peer reviewer reviewed explained that one of her goals is to review how the project complies with the ten standards of the MassDEP Stormwater Management Handbook. She has had two meetings with the design

engineers and submitted her third peer review letter today. Concerns that she had early on have been addressed and she is working with the Town Engineer on his specific comments.

Ms. Bernardo stated the site is an existing meadow. The developer is proposing to control the stormwater that will come off of the site through underground recharge systems which are a very common and desirable alternative. More information is needed on the details of the design, specifically how everything is connected, to know if what they are proposing can be constructed as designed. The existing pipes under Lowell Street appear to be clogged and may not have the necessary capacity. The developer and the Town are discussing who will be responsible for cleaning and or replacing those pipes. As designed, the stormwater system will hold back more water than is currently coming off of the site.

Ms. Bernardo reviewed the outstanding items. Standard 1 states there can be no erosion in the wetlands. She does not see any wetlands on the site, and she believes there are wetlands on the other side of Lowell Street behind Windemere Drive, but she is not sure where the outlet is, or if there is currently any erosion currently at the outlet. If there is currently no erosion at the discharge site, there cannot be erosion under post development conditions.

Ms. Bernardo stated that she had comments on Standard 3 which focuses on recharge. The calculations are correct, and the system will work properly as long as it is constructed exactly as designed. This comment calls for the Town Engineer to inspect the system post construction.

Ms. Bernardo stated that a major focus requested by Mr. Materazzo is on Standard 6, discharge to a critical area. At first she did not think that Standard 6 applied because the site hits a corner of the Watershed Protection Overlay District. The Standard focuses on a discharge to a Zone A. Fish Brook is a public water supply and the offsite wetlands are tributaries to Fish Brook. A Zone A is 200 feet on either side of a tributary and drain pipes discharging to a Zone A is a prohibited use. However, the pipes are discharging to the wetlands under existing conditions, so the applicant needs to verify that the discharge is essential to the public water supply. Ms. Bernardo stated that there are a few minor details that still need to be addressed. She added that the recharge system is a good system with a good design and she is very confident that it will work.

Ms. Knowles asked if she was sure that Standard 6 can be met. Ms. Bernardo stated that her specialty is not in water supply so she cannot define essential, and the use is prohibited unless the runoff from the site is essential to the water supply. Mr. Pouliot stated that he was concerned about the water table. He asked if it can be confirmed that the water in the basins will not go onto the other side of the road and cause problems for abutters. Ms. Bernardo stated that the site has great soil and the system is larger than it needs to be. She added that it is a requirement for the bottom of the system to be two feet from the water table. The water drains slowly vertically and even slower horizontally typically staying with the contour of the land. She added that the water will be infiltrating throughout the site, not just in one area. Mr. Pouliot asked Ms. Bernardo in her expert opinion if the water will go under the road and effect people across the street. Ms. Bernardo stated that the water would not sheet flow under the road and the catch basins and road systems will collect sheet flows on the site.

Mr. Chiozzi asked if it was hard to determine if the culverts are clogged. Ms. Bernardo stated photographs have been taken and it is agreed that there is clogging. There has been discussion about responsibility for cleaning and replacing. Mr. Materazzo added that the applicant has agreed to clean out the culvert once. Mr. Chiozzi asked if the culvert was caving in. Ms. Bernardo stated that she was unaware if it was caving in. Tony Moura from Stantec described the outlet as being 2 ft below grade, with a hole that fills up and acts as a dissipation bowl and spills out above grade. The hole is currently clogged with sediments and debris.

Mr. Doherty questioned if the entire site is in the WPOD. Mr. Materazzo stated that there are certain design standards that they have to comply with because it is within a watershed. Ms. Bernardo added that because it is in the overlay, the rain garden in the back corner needs to meet specific criteria. The Inspector of Buildings has submitted a letter stating it is in compliance. Residential developments are allowed within this portion of the WPOD, a rain garden is allowed with certain requirements, and a planting plan is required.

Mr. Doherty asked if the Phase 2 infiltration system would be part of Phase 1 construction. Mr. Moura stated that it would not. Ms. Bernardo added that there is no need for the system for Phase 1 because it deals with roof and pavement runoff from the second building.

Tony Zuena of 20 Windemere Drive stated that the technical drainage design is standard and it works, but the site is entirely in the WPOD. The design relies on two prohibited uses. To level the land for a foundation for the Phase 1 building there is a 14 ft cut placing it below groundwater elevation. He feels there will be groundwater weeping out of the slope and with a 2:1 slope, vegetation will not work. The field to the right of the farmhouse has a natural swale with an existing brick headwall with an active 12" concrete pipe flowing under Lowell Street and into the wetlands. During heavy rain the field floods and the recharge flows over the ground into the culvert and into Fish Brook and into Haggetts Pond. This design would fill that field by 7 ft and alter the water course. These prohibited uses require the applicant to seek a variance or to redesign the project for approval because it violates the WPOD which requires a special permit. Mr. Doherty asked Mr. Zuena what his profession was and Mr. Zuena answered that he is a civil engineer. He added that he spent hours studying this and he feels the memo that he submitted requires an acceptable detailed response or any approval would be subject to an appeal. Mr. Bergeron asked Mr. Materazzo what the next steps would be based on Mr. Zuena's memo and Mr. Materazzo stated that it would be to continue to work closely with the Town's consultant and to have the Town Engineer to advise the Board.

Steve O'Connell of 6 Robinswood Way stated that he recently built a 1600 s.f. sport court in his backyard and he went through a lengthy process for approval from the Town and the State. He asked why the Conservation Commission is not weighing in on this project as it is a prohibited use and impacting the watershed. Mr. Materazzo stated that there are no wetlands in the jurisdictional proximity of the construction area and the Planning Board is the special permitting authority for the WPOD.

Charlie Erban of 249 Lowell Street noted that the culvert that goes under Lowell Street is on his property. It empties out between his backyard and his neighbor on Windemere's backyard. He questioned if his yard would become a pond once the culvert was unclogged.

Heather Lauten of 243 Lowell Street stated that her property is across the street from the proposed rain garden which she thinks is a euphemism for a stormwater retention pond. The water table is extremely high and during storm events, particularly in the winter, water seeps up into her basement. She has very little confidence in the findings of the peer review and would like to see substantially more information or a study about the water issues in this area.

Mr. Bergeron noted that at the next meeting the Board will discuss drainage and the watershed as well as Town Counsel's opinion on the affordability component and the project in general.

On a motion by Mr. Chiozzi seconded by Mr. Doherty the Board continued the public hearing to November 18, 2014 at 8:00 p.m. **Vote:** Unanimous (5-0).

58 Lowell Junction Road:

Mr. Bergeron opened the public meeting on an application filed by 58 Lowell Junction Road, LLC for Site Plan Review for a 1,680 s.f. modular office building located at 58 Lowell Junction Road.

Aaron Beckner of GeoInsight, an engineer representing the applicant gave an overview of the project. He stated that the Zoning Board has voted to grant the applicant a special permit for a contractor's yard and their decision is being drafted. The site is located in an overlay for endangered moths and butterflies, so the applicant has gone through the Massachusetts Endangered Species Act process and was granted permission for their project today. The site is 4 acres of undeveloped land that will become a gravel contractor's yard with a 40' x 42' modular office building and ten paved parking spaces. Mr. Beckner explained the stormwater management system that will be located in an existing depression on the site that stormwater naturally drains to today. A stormwater management plan that outlines erosion control and a post construction operations and maintenance plan have been submitted.

The site will be serviced by sewer, gas, water and overhead electric utilities and have lighting for access and security by wall packs on the building. They will be keeping as much of the existing natural vegetative buffer onsite as possible.

Mark Sanborn, the applicant, explained that his business currently is located on an abutting property and he needs more room for operation. His company supplies businesses with shipping/storage containers and dumpsters, as well as modular offices for commercial applications. Part of the site will be used for short term storage of these items. The modular office onsite will house less than 10 people and there will also be a loader onsite.

Mr. Materazzo asked Mr. Sanborn about hours of operation. Mr. Sanborn stated that his drivers are dispatched at 5, 6 and 7 a.m to deliver dumpsters. He added that the frequency of truck

58 Lowell Junction Road:

traffic for the modular units is small because of the high demand. They usually will pick a unit up at one site and bring it directly to another site, very rarely storing a unit.

Mr. Chiozzi asked if the Inspector of Buildings has reviewed the modular office and if the building would have footings. Mr. Sanborn stated that the Inspector of Buildings is involved in the process and the building has a structural footing with piers and attached utilities. Mr. Pouliot asked about the construction dumpsters. Mr. Sanborn stated that the dumpsters are emptied before they are brought back to the site. Mr. Chiozzi asked if they have a washing facility onsite and Mr. Sanborn stated that they will not. Ms. Knowles asked if he will be combining the two parcels that he owns. Mr. Sanborn stated that the site will not be combined and there will be no access between the sites.

Mr. Materazzo stated that an IDR was held and the only comments came from the DPW. They asked for an additional sewer profile and a couple of other minor tweaks which have been provided.

On a motion by Mr. Doherty seconded by Ms. Knowles the Board closed the public meeting for Site Plan Review for 58 Lowell Junction Road. **Vote:** Unanimous (5-0).

Mr. Materazzo suggested that the Board deliberate on 58 Lowell Junction Road at their October 28th meeting.

Other Business:

The Board discussed email procedures and upcoming training sessions offered by the Merrimack Valley Planning Commission.

Adjournment: The meeting was adjourned at 9:55 p.m.